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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,977	09/11/2003	Tomohiro Fuse	HGM-100-A	5921

7590 06/06/2005

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EXAMINER

VASUDEVA, AJAY

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,977

Applicant(s)

FUSE, TOMOHIRO

Examiner

Ajay Vasudeva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>rec'd 1/15/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

AS

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DETAILED ACTION

Change of Examiner

1. The assignment of the instant application has been changed to art unit 3617.

Election/Restrictions

2. Claims 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention of Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/22/2005. Applicant's election with traverse of invention of Group I (claims 1-10) is acknowledged. The traversal is on the ground(s) that the newly amended method claims of Group II are similar in concept to the claims of Group I. Applicant further argues that because the "depicted species" are closely related inventions, they would require a similar search, and therefore would not place serious burden on the Examiner. Applicant's arguments are not found persuasive because:

(a) inventions of Group I and Group II are not related as different "species", as argued by the applicant, but as non-dependent and therefore independent inventions; and

(b) where the inventions are related as disclosed but are distinct as claimed, a restriction is considered proper (MPEP 806). The invention of Group II, as amended, is still distinct and independent of the invention of Group I because the apparatus claims of Group I are drawn to a ride plate for a watercraft with a jet propeller, while the claims of Group II are directed to a method of using the ride plate, and can be practiced with a watercraft that is not equipped with a jet propeller. The examination of claims of Group II, therefore, would require a different search.

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Objections

3. Claim 4 is objected to because of the following informalities:

- The dependency of claim 4 is improper and must be corrected.
- On line 3, change "**tap**" to – **tab** --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 3, after "and wherein said", applicant recites a limitation "projecting tabs fit nestingly between the tab stops". However, it is not clear how such projecting tabs fit between the tab stops because the disclosure provides no explanation for such arrangement. Further, it is not clear if the applicant in fact intended to claim "positioning projections fit nestingly between the tab stops".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

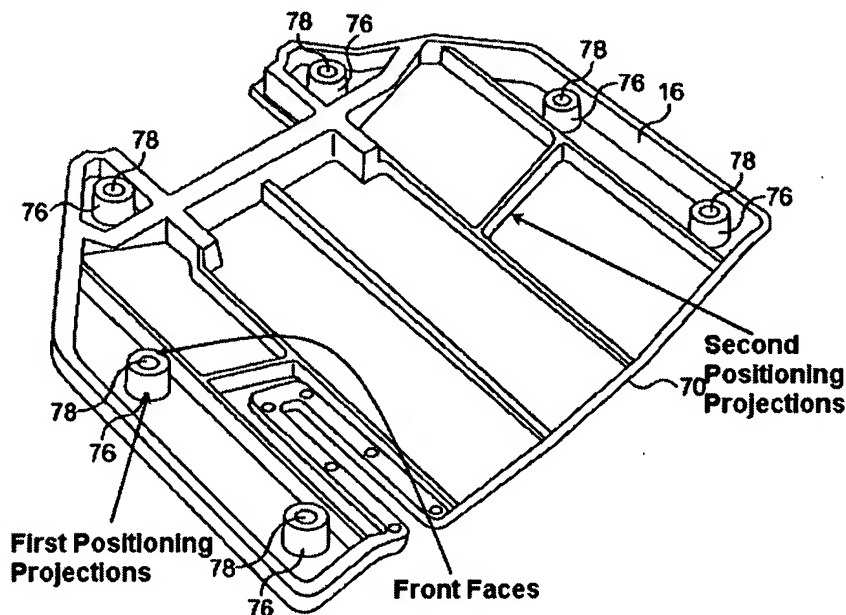
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 5, and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ménard et al. (US 6,544,085 B1).

Ménard et al. shows a removable ride plate [16] having a pair of integrally formed left and right first positioning projections [76], and a pair of left and right second positioning projections (see annotated figure below). Both the first and the second positioning projections project upwardly at a front portion of the ride plate (see figures 4, 7 and 8). The positioning projections have horizontally disposed and upward facing front faces for contacting a pair of left and right tab stops formed in a watercraft body (figure 6B).



Re claims 2 and 3, the ride plate comprises an arresting member extending outwardly at the front end (*adjacent numeral 72* in figures 4 and 6B) wherein the arresting member is narrower than the widest part of said ride plate. The arresting member extends vertically higher

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than a central longitudinally extending rib, and is therefore considered to be an elevated member at least with respect to the central rib and the middle section of the plate in which the rib is disposed.

Re claims 7 and 8, the second positioning projections have flattened front faces that are substantially vertically oriented, and have a substantially rectangular horizontal cross-sectional shape.

Re claims 9 and 10, the ride plate comprises a plurality of spaced-apart raised ribs extending transversely across an upper surface of the plate (see figure 13).

Note: Applicant may note that the any type of plate mechanism disposed in the hull of a boat -- such as a water intake grill or grate -- would also qualify as a ride plate.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ménard et al. (US 6,544,085 B1) in view of Ohtuka et al. (US 5,894,087 A).

Ménard et al. shows a removable ride plate mounted under a stern opening of a watercraft, as above.

However, Ménard et al. fails to show the plate being received in spaced apart stepped recesses formed at the sides of the watercraft opening.

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Ohtuka et al. show a watercraft having a stern opening with spaced apart stepped recesses formed at the sides, and a ride plate being received in the stepped recesses (figure 14).

It would have been obvious for one skilled in the art at the time of the invention to modify the hull opening of Ménard et al. to have spaced apart stepped recesses formed at the sides, as taught by Ohtuka et al. Having such recesses would have snugly accommodated the ride plate in a flush engagement with the hull surface, thereby allowing a streamlined flow along the hull surface. Such arrangement would have also firmly secured the ride plate to the hull.

Allowable Subject Matter

10. The allowability of claim 4 cannot be determined due to the indefinite nature of the claim.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

The cited prior art references in the attached PTO Form 892 show ride plates.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617

AV


AJAY VASUDEVA
PATENT EXAMINER 5/23/05